

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 21-0289V

CAROLYN KIMMICK,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: October 25, 2023

Leah VaSahnja Durant, Law Offices of Leah V. Durant, PLLC, Washington, DC, for Petitioner.

Alexa Roggenkamp, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On January 7, 2021, Carolyn Kimmick (“Petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). She filed an amended petition on August 9, 2023. ECF No. 25. Petitioner alleges that she suffered a left shoulder injury related to vaccine administration (“SIRVA”), a defined Table injury after receiving an influenza (“flu”) vaccine on November 14, 2020. Amended Petition at 1, ¶¶ 2, 12. Petitioner further alleges that she received the flu vaccine in the United States, that she continues to suffer the residual

¹ Because this Ruling contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims’ website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

effects of her SIRVA injury more than six months, and that neither she nor any other party has filed a civil case or received compensation for her SIRVA injury. *Id.* at ¶¶ 1, 11, 13. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On October 25, 2023, Respondent filed a combined Rule 4(c) Report and Proffer in which he concedes that Petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report and Proffer at 1. Specifically, Respondent believes "that [P]etitioner's alleged injury is consistent with SIRVA as defined by the Vaccine Injury Table." *Id.* at 6. Respondent further believes that "based on the record as it now stands, [P]etitioner has satisfied all legal prerequisites for compensation under the Act." *Id.*

In view of Respondent's position and the evidence of record, I find that Petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
Chief Special Master